

NYE COUNTY ORDINANCE NO. \_\_\_\_

SUMMARY: An Ordinance adding to Nye County Code Chapter 15.28, the Pahrump Regional Planning District Dust Control Regulations, and other matters properly related thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 15 BY ADDING CHAPTER 15.28, DUST CONTROL REGULATIONS EFFECTIVE WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT, PROVIDING DEFINITIONS, CONTROL MEASURES AND ENFORCEMENT; PROVIDING FOR AN EFFECTIVE DATE AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety and the general welfare of the residents of Nye County, the Nye County Board of County Commissioners (Board) is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, it is recognized through air quality monitoring by the Nevada Division of Environmental Protection (NDEP) that, within the Nye County portion of State hydrographic area No. 162 (Pahrump Valley) federal PM<sub>10</sub> air quality standards were exceeded several times over the last few years; and

WHEREAS, the Board entered into a Memorandum of Understanding with the U.S. Environmental Protection Agency (EPA), NDEP and the town of Pahrump in order to defer action by EPA that would designate the Nye County portion of hydrographic area No. 162 as “nonattainment,”; and

WHEREAS, it is the responsibility of the Board to promote and protect the health and welfare of the inhabitants of the Pahrump Regional Planning District, which necessitates the control and regulation of activities affecting the quality of the air therein; and

WHEREAS, -the purpose of these regulations to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, aesthetic and historic values of Pahrump Regional Planning District; and

WHEREAS, the quality of air is declared to be affected with the public interest and these regulations are enacted in the exercise of the police power of Nye County to protect the health, safety and general welfare of ~~it's~~ its people as required by State law;

NOW, THEREFORE, the Board of County Commissioners of the County of Nye, State of Nevada, in accordance with Chapter 445B of Nevada Revised Statutes, does hereby adopt, promulgate and order compliance therewith within the Pahrump Regional Planning District, the following regulations:

**NYE COUNTY CODE CHAPTER 15.28 IS ADDED AS FOLLOWS:**

**15.28 DUST CONTROL REGULATIONS WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT**

**ARTICLE I: GENERAL PROVISIONS**

**15.28.010 Short Title**

This Chapter shall be known, and may be cited as: The Dust Control Regulations of the Pahrump Regional Planning District.

**15.28.020 Authority and Purpose**

- A. This Chapter is adopted pursuant to Nevada Revised Statute 445B.500 (Establishment and administration of program. . . ) which at subsection 4 states, “Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.”
- B. The purpose of this Chapter is to:
  - 1. Control PM<sub>10</sub> emissions at existing and active surface disturbance sites to achieve compliance with federal air quality standards;
  - 2. Improve air quality in order to protect the health, safety and general welfare of the inhabitants of the Pahrump Regional Planning District;

**15.28.030 Jurisdiction**

A. The provisions of this Chapter shall apply to the Pahrump Regional Planning District of Nye County, Nevada:

**15.28.040 Enforcement and Penalties**

- A. Failure to comply with any requirement of this chapter constitutes a violation. The Nye County Planning Department shall issue a written notice of an alleged violation to any owner or operator for, including, but not limited to:
  - 1. Any violation of a provision of this chapter;
  - 2. Any violation of any provision, term, or condition of any permit that contains requirements stipulated in this chapter;

3. Failure to pay any fee; or
  4. Falsification of any material statement, representation or certification in any application, notice or report.
- B. To the extent that a violation is not regulated by State regulation, whenever the Nye County Planning Department believes that a regulation for the prevention, abatement or control of ~~Fugitive Dust~~ fugitive dust has been violated, it shall cause written notice to be served upon the person or persons responsible for the alleged violation. The notice shall specify:
1. The specific regulation violated;
  2. The facts constituting the violation; and
  3. The timeframe under which corrective action must taken.
- C. Any person who violates any provision of this chapter shall be punished by a fine of not more than ~~\$500~~ \$10,000 for each day of each violation.
- D. If, in the judgment of the Nye County Planning Department, any person is engaged in a violation of any provision of this chapter, the Nye County Planning Department may request that the District Attorney institute by indictment or information a criminal prosecution of the person.
- E. The Nye County Planning Department shall issue a cease and desist order if the proposed construction, installation, alteration, or establishment will not be in accordance with the provisions of ~~the~~ this chapter, including all materials submitted to the Nye County Planning Department.
- F. A person served with a cease and desist order shall immediately stop all activities specified in the cease and desist order, and may apply for its revocation at any time, setting forth the facts upon which he believes that the reasons for the issuance of the cease and desist order no longer exist. If the Nye County Planning Department finds that the reasons for the issuance of the cease and desist order no longer exist, the Nye County Planning Department shall withdraw the order promptly. If the Nye County Planning Department finds the reasons for the issuance of the order still exist, or that other reasons exist for continuing a cease and desist order in effect, the Nye County Planning Department shall, within 48 hours issue a written statement of the Nye County Planning Department's reasons for so finding.

#### **15.28.050 Interpretation, Conflict, Separability and Constitutionality**

- A. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that such provisions are necessary to promote the public health, safety and welfare.
- B. Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Chapter or any other applicable law, ordinance, resolution, or rule of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

- C. The provisions of this Chapter are separable. If a section, sentence, clause, or phrase of this Chapter is adjudged by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the remaining portions of this Chapter.

## **ARTICLE II: DEFINITIONS**

### **15.28.060 Generally**

~~A.~~ The words and terms used in this Chapter shall be defined as follows. All words used in the singular shall include the plural and the plural the singular. Each gender shall include the others; any tense shall include the other tenses. The word “shall” is mandatory and the word “may” is permissive.

### **15.28.070 Definitions**

**Agricultural Operations** means the growing of crops for profit or the growing of crops for the purpose of providing life support to a considerable number of people, animals or fowl.

**~~Best Management Practices.~~** ~~Dust Control Measures that are based on each project soil type and project activity as required in the Dust Control Handbook. These practices shall be included in each Dust Control Plan and are established to meet the goal of reducing Fugitive Dust from construction sites.~~

**Best Practical Methods.** Fugitive Dust Control Measures ~~that~~ include, but are not limited to, phased clearing of the land; the use of ~~Dust Palliative~~ dust palliative; the use of water; the use of snow fencing (a fencing material that inhibits the wind); the use of windbreaks; ~~Revegetation~~ (excluding noxious weeds); the use of ground cover (e.g. gravel, decorative stone); physical barriers and signs to prohibit access to the disturbed areas by motorized vehicles; controls on single lot development approved as a part of a land division subject to these regulations; or ~~ease~~ cessation of operations when wind conditions exceed the operator’s ability to control ~~Fugitive Dust~~ fugitive dust

**Burn Barrel.** A container made of metal or other fire resistance substance used ~~the~~ to hold vegetative material while burning.

**Commerical and Residential Construction.** Construction of structures intended to be utilized solely as personal dwellings, including but not limited to single family homes, duplexes, fourplexes, apartments, condominiums, town houses; construction of institutional structures, schools, libraries, churches, hospitals, parks, office structures; shopping malls; residential streets within a subdivision; improvements to existing curbed paved roads; parking lots, parking lot structures; and construction of underground utilities for sanitary sewer, water, electricity, natural gas and communication.

**Construction Activity.** Any component of the following including, but not limited to: ~~Commereial and Residential Construction~~ commercial and residential construction, flood control

construction, and highway construction, including land clearing, maintenance, and land cleanup using machinery; soil and rock excavation or removal; soil or rock hauling; soil or rock crushing or screening; filling, compacting, stockpiling and grading; explosive blasting; demolition; implosion; handling of building materials capable of entrainment in air (e.g., sand, cement powder); dismantling or demolition of buildings; mechanized trenching; initial landscaping; operation of motorized machinery; driving vehicles on a construction site; or establishing and/or using staging areas, parking areas, material storage areas, or access routes to or from a construction site.

**Control Measure.** A technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of ~~Fugitive Dust~~ fugitive dust.

**Disturbed Area.** A portion of the earth's surface (or material placed thereupon) which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition, thereby increasing the potential for the emission of ~~Fugitive Dust~~ fugitive dust. Any area that fails the Drop Ball Test or Rock Test as defined in 15.28.130 is a Disturbed Area.

**Dust Control Handbook.** A guide used to select the appropriate Best ~~Management Practices~~ Practical Methods appropriate for each ~~Construction Activity~~ construction activity that will be used to control ~~Fugitive Dust~~ fugitive dust and itemized in a Dust Control Plan.

**Dust Control Plan.** A plan to formalize a project-specific ~~Fugitive Dust~~ fugitive dust control program.

**Dust Palliative.** Hygroscopic material, non-toxic chemical stabilizer or other material which is not prohibited for ground surface application by the federal Environmental Protection Agency (EPA) or the Nevada Department of Environmental Protection (NDEP) or any applicable law or regulation, used as a treatment material for reducing ~~Fugitive Dust~~ fugitive dust emissions. Water, solutions of water and chemical surfactants, and foam are not Dust Palliatives for the purpose of these Regulations.

**Emergency.** A situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including Acts of God, that requires immediate corrective action to restore normal operations.

**Dust Suppressant.** Water, hygroscopic material, solution of water and chemical surfactants, foam, non-toxic chemical stabilizer or any other ~~Dust Palliative~~ dust palliative which is not prohibited for ground surface application by the federal Environmental Protection Agency (EPA) or the Nevada Department of Environmental Protection (NDEP) or any applicable law or regulation, used as a treatment material for reducing ~~Fugitive Dust~~ fugitive dust emissions.

**Fugitive Dust.** Particulate matter; which is not collected by a capture system that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. ~~Fugitive Dust~~ fugitive dust is entrained in the air and is caused from human and/or natural activities, such as but not limited to, movement of soil, vehicles, equipment, blasting, and wind.

**Garbage** means putrescible animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking and serving of food.

**Open Areas and Vacant Lots.** An undeveloped tract of land, which contains no approved or permitted buildings or structures.

**Open Burning.** Any fire from which the products of combustion are emitted into the atmosphere without passing through a stack, chimney, or duct.

**Refuse** means any:

(a) Garbage.

(b) Sludge from a:

(1) Plant that treats waste water.

(2) Plant that treats the water supply.

(3) Facility for controlling air pollution.

(c) Other discarded material, except yard waste, including solid, semi-solid, liquid or contained gaseous material, resulting from industrial or commercial operations or community activities.

**Roads.** All publicly dedicated rights-of way within the Pahrump Regional Planning District.

**Rubbish** means nonputrescible solid waste, consisting of both combustible and noncombustible wastes such as paper, cardboard, abandoned automobiles, tin cans, wood, glass, crockery and similar materials.

**Unpaved Parking and Storage Areas.** Those parcels, or portions of parcels that include (but are not limited to) parking lots, automotive impound and/or dismantling yards, material and equipment handling and/or storage yards, salvage and/or wrecking yards, outside storage and/or display, and similar uses.

### **ARTICLE III: CONTROL MEASURES**

#### **15.28.080 Fugitive Dust**

- A. No person shall cause or permit the handling, transportation or storage of any material in a manner that allows visible emissions of particulate matter to exceed 20% opacity using the Time Averaged Method described in 15.28.140.
- B. All control measures selected must be maintained to ensure the visible emissions do not exceed the 20% limit as described in 15.28.080.A
- C. Any person engaged in activities involving the dismantling or demolition of buildings, grubbing, grading, clearing of land, public or private construction, the operation of machines and equipment, the grading of roads, trenching operations, the operation and use of unpaved parking facilities, agricultural operations, and the organization and supervision of public

outdoor events, operation and use of raceways and rodeo grounds for animals or motor vehicles, shall take all reasonable precautions to abate fugitive dust from becoming airborne from such activities. Reasonable precautions may include, but are not limited to, sprinkling, compacting, enclosure, chemical, or asphalt sealing, cleaning up, sweeping, soil amendments, addition of non-emissible covers or such other measures as Nye County may specify to accomplish satisfactory results ensure the 20% opacity limit is not exceeded..

- D. Use and operation of livestock arenas, horse arenas, corrals and feed lots should take all reasonable precautions to abate fugitive dust from becoming airborne from such activities. Reasonable precautions may include, but are not limited to, sprinkling, compacting, enclosure, chemical, or asphalt sealing, cleaning up, sweeping, soil amendments addition of non-emissible covers or such other measures as Nye County may specify to accomplish satisfactory results ensure the 20% opacity limit is not exceeded..

#### **15.28.090 Unpaved Parking and Storage Areas**

- A. No new Unpaved Parking and Storage Areas, excluding single family residential, shall be constructed within the Pahrump Regional Planning District except for the following:
1. Storage and handling of landscape, aggregate, and similar bulk materials requires implementation of control measures as described in 15.28.090.B. below, and all access, parking, and loading areas used by on-road vehicles must ~~by be~~ paved or chip sealed.
  2. Storage and handling of non-rubber-tired vehicles or equipment requires implementation of control measures as described in 15.28.090.B. below, and all access, parking, and loading areas used by rubber-tired vehicles must be paved or chip sealed.
  3. Rural public trailheads, campgrounds, and similar facilities on Bureau of Land Management administered lands are subject only to stabilization per 15.28.090.B. ~~2-3~~ 4-5 below prior to use.
  4. Intermittent use for a period of 35 days or less during the calendar year requires implementation of control measures as described in 15.28.090.B. 4-5 below while utilized for vehicle parking.
- B. All existing Unpaved Parking and Storage Areas greater than or equal to 5,000 square feet shall implement the following Control Measures within one year of the adoption of this ordinance:
1. Pave; or
  2. Gravel to a minimum depth of 2"; or
  3. Chip seal; or
  - 2.4. Apply ~~Dust Palliative~~ dust palliative to unpaved areas in conformance with the stabilization requirements in 15.28.130; or



~~3.5.~~ Apply ~~Dust Palliative~~ dust palliative to vehicle travel lanes within the parking lot in conformance with the stabilization requirements in 15.28.130.

Any person subject to the requirements of this Regulation shall compile and retain records for one year that provide evidence of Control Measure application, by indicating type of treatment or Control Measure, extent of coverage, and date applied. That person shall also make those records available to the Nye County Planning Department or authorized representative upon request.

- C. Waivers or variances of the requirement to reduce fugitive dust for unpaved areas greater than or equal to 5,000 square feet are not permitted.

#### **15.28.100 Burning**

- A. Except as provided in 15.28.100.~~D~~ C below, no person shall kindle or maintain any open burning for the purpose of weed abatement, disposal of yard waste, conservation, disease control, game or range management, personnel training, elimination of hazards, agricultural purposes and management, recreational, educational or ceremonial purposes or authorize any such fire to be kindled or maintained on any public or private land without first having obtained a permit from the Town of Pahrump Fire Chief.
- B. The burning of garbage refuse and rubbish is prohibited within the Pahrump Regional Planning District. The use of Burn Barrels for the purpose of burning garbage refuse or rubbish is prohibited within the Pahrump Regional Planning District.
- ~~C. Open burning with permits is allowed between ten a.m. and three p.m. The open burning must be extinguished by three thirty p.m.~~
- ~~D.~~ C. Outdoor fires may be used for heating, cooking, or branding in an appropriate fireplace or appliance at any time without permission.

#### **15.28.110 Construction Activities**

- A. A person engaged in Construction Activity shall employ Best Practical Methods to prevent the generation of ~~Fugitive Dust~~ fugitive dust.
- B. Except when engaged in ~~commercial~~ agricultural operations, no person may initiate an activity that results in Disturbed Areas unless Best Practical Methods are taken to prevent generation of ~~Fugitive Dust~~ fugitive dust during both the active development phases and thereafter if the property is to remain unoccupied, unused, vacant, or undeveloped.
- C. For any project involving in aggregate one-half acre or more of Disturbed Area, a Dust Control Plan must be submitted to the Nye County Planning Department along with the building permit application, conditional use permit application, zoning change application, or site development plan. The Dust Control Plan shall specify the use of ~~Best Management Practices~~ Best Practical Methods to control the generation of ~~Fugitive Dust~~ fugitive dust from each ~~Construction Activity~~ construction activity. The owner/operator will:



1. File a complete Dust Control Plan with the Nye County Planning Department before initiating Construction Activities.
  2. Implement the ~~Best Management Practices~~ Best Practical Methods as outlined in the Dust Control Plan.
  3. Maintain a written record of self inspection made each day soil disturbing work is conducted;
  4. Retain records of site self inspections for a minimum of one (1) year or for six (6) months beyond the project duration, whichever is longer. Self inspection records include daily inspections for crusted or damp soil, trackout conditions and cleanup measures, daily water usage, ~~Dust Palliative~~ dust palliative application records, etc. For Control Measures involving chemical or organic soil stabilization, records shall indicate the type of product applied, vendor name, label instructions for approved usage, and the method, frequency, concentration, and quantity of application; and
  5. Install a sign on said property prior to commencing construction activity that is visible to the public and conforming to County policy on Dust Control Permit Design and Posting of Signage ~~listed in Attachment 3 of the Dust Control Handbook.~~ as described in 15.28.150, Posting of Informational Signs on Construction Sites.
  6. When a construction is complete, or a site or part thereof becomes inactive for a period of thirty (30) days or longer, long-term stabilization shall be implemented within ten (10) days following the cessation of active operations.
- D. The following activities do not require a Dust Control Plan:
1. Landscaping by an individual at his/her place of residence;
  2. Emergency maintenance activities conducted by government agencies on publicly maintained roads, road shoulders, ~~right-of-ways~~ rights-of-way and on public flood control facilities; or,
  3. Dust Palliative application projects conducted solely for the purpose of compliance with Open Areas and Vacant Lots subsection of this ordinance, wherein no grade elevation changes, no soil or rock is imported or exported, or no cut and fill operations occur. Importing of gravel or rock for use as a dust palliative is allowed under this subsection.
- E. In addition to complying with Nye County Ordinance 10.12.030.~~A.~~ while operating on any highway, all operators are expected to comply with the following requirements while operating on all public ~~right-of-ways~~ rights-of-way:
1. Any vehicle operating on a paved or unpaved roadway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom, must undertake one of the following control measures:

- a. Six inches of freeboard is maintained within the bed of the vehicle. For the purposes of this regulation, “freeboard” means the vertical distance from the highest portion of the edge of the load to the lowest part of the rim of the truck bed; ~~or and~~
- b. Materials contain enough moisture to control dust emissions from the point of origin to the final destination. Wherever possible, the use of dust suppressants must be applied in conjunction with the water;

In the event that measures 15.28.110.~~F.1~~ E.1.a. ~~or and~~ 15.28.110.~~F.2~~ E.1.b. are ineffective in preventing materials from escaping, tarps or other cargo covers shall be employed.

This section does not prohibit a public maintenance vehicle from depositing sand on a paved roadway to enhance traction, the removal of materials deposited as the result of flooding, or sprinkling water or other substances to clean or maintain a highway.

- F. Any material which is tracked onto a paved roadway must be removed (swept or washed) as quickly as safely possible. At a minimum all trackout must be cleaned up by the end of the workday or evening shift, as applicable. Exceptions to this provision may be made by the Nye County Planning Department for the construction, maintenance, and/or repair of paved roadways and for the application of traction materials for wintertime driving conditions.
- G. To minimize fugitive dust generated during the loading of haul trucks, the drop heights from front loaders shall not exceed 12 inches.

#### **15.28.120 Open Areas and Vacant Lots**

- A. The owner of any Open Areas and Vacant Lots or contiguous parcels with Disturbed Areas in aggregate of more than one acre is required to control the release of fugitive dust from the parcel or contiguous parcels by implementing one or more of the following Best Practical Methods to the extent necessary to pass the ~~stabilization~~ stabilization tests described in 15.28.130:
  1. Physical barriers and signs to prohibit access to the disturbed areas by motorized vehicles;
  2. The use of ground covers (e.g. gravel, decorative stone)
  3. The use of ~~Dust Palliative~~ dust palliative (chemicals that bind soil together and retain moisture);
  4. The use of snow fencing (a fencing material that inhibits the wind);
  5. The use of windbreaks;
  6. The application of water in an amount and frequency adequate for the soil to develop a crust; or
  7. Revegetation

In the event that the disturbed areas are primarily the result of recurrent unauthorized use of the property by motorized vehicles, the application of water is not a suitable Control Measure without the erection and maintenance of physical barriers. The use of or parking on Open Areas and Vacant Lots for ~~noncommercial and non-institutional~~ private purposes by the owner of such Open Areas and Vacant Lots shall not be considered vehicle use under this subsection.

- B. Except for those portions of parcels zoned Residential Estate or Residential Homestead and engaged in ~~commercial~~ agricultural operations or occupied by livestock, each property owner shall implement Best Practical Methods within one year of the effective date of this ordinance.
- C. Mechanized Weed Abatement and/or Trash Removal: If machinery is used to clear weeds and/or trash from Open Areas and Vacant Lots larger than one acre, then the following Control Measures shall be applied. Advisory Notice: In order to conserve water to the greatest extent practicable, the use of reclaimed water is highly encouraged.
  - 1. Pre-wet surface soils before mechanized weed abatement and/or trash removal occurs; and,
  - 2. Maintain soil ~~moiture~~ moisture while mechanized weed abatement and/or trash removal is occurring; and,
  - 3. Apply water, or apply a suitable ~~Dust Palliative~~ dust palliative, in compliance with the stabilization standard set forth in 15.28.130.A., apply gravel in compliance with the stabilization standard set forth in 15.28.130.B, or pave after mechanized weed abatement and/or trash removal occurs.

#### **15.28.130 Stabilization Standards**

- A. Drop Ball Method. The drop ball test method described in Subsection 15.28.130.A.1. through 15.28.130.A.4. shall be used to determine whether an Open Area or a Vacant Lot has a stabilized surface. Should a disturbed Open Area or Vacant Lot contain more than one type of disturbance, soil, or other characteristics which are visibly distinguishable, each representative surface must be tested separately for stability in an area that represents a random portion of the overall disturbed conditions of the site, utilizing the test method in 15.28.130.A.1. through 15.28.130.A.4. Depending upon test method results, include or eliminate each representative surface from the total size assessment of the Disturbed Surface Area(s).
  - 1. Soil Crust Determination (The Drop Ball Test): Drop a steel ball with a diameter of 15.9 millimeters (0.625 inches) and a mass ranging from 16-17 grams from a distance of 30 centimeters (one foot) directly above the soil surface. If blowsand is present, clear the blowsand from the surfaces on which the soil crust test method is conducted. Blowsand is defined as thin deposits of loose uncombined grains covering less than 50% of an Open Area or Vacant Lot which have not originated from the representative Open Area or Vacant Lot surface being tested.
  - 2. A sufficient crust is defined under the following conditions: once a ball has been dropped according to Subsection 90.4.1.1 of this Regulation, the ball does not sink into the surface, so that it is partially or fully surrounded by loose grains and, upon removal of the ball, the surface upon which it fell has not been pulverized, so that loose grains are visible.
  - 3. Randomly select each representative Disturbed Surfaces for the drop ball test by using a blind “over the shoulder” toss of a throwable object (for example, a metal weight with survey tape attached). Using the point of fall as the lower left hand corner, measure a 1-foot square area. Drop the ball three times within the 1-foot by 1-foot square survey area,

using a consistent pattern across the survey area. The survey area shall be considered to have passed the Soil Crust Determination Test if at least two of the three times the ball was dropped, the results met the criteria in Subsection 15.28.130.A.2 of this chapter. Select at least two other survey areas that represent a random portion of the overall disturbed conditions of the site, and repeat this procedure. If the results meet the criteria of Subsection 15.28.130.A.2 of this chapter for all of the survey areas tested, then the site shall be considered to have passed the Soil Crust Determination Test and shall be considered sufficiently crusted.

4. At any given site, the existence of a sufficient crust covering one portion of the site may not represent the existence or protectiveness of a crust on another portion of the site. Repeat the soil crust test as often as necessary on each portion of the overall conditions of the site using the random selection method set forth in Subsection 15.28.130.A.3 of this Regulation for an accurate assessment.
- B. Rock Test Method: The Rock Test Method examines the wind-resistance effects of rocks and other non-erodible elements on disturbed surfaces. Non-erodible elements are objects larger than 1 centimeter (cm) in diameter that remain firmly in place even on windy days. Typically, non-erodible elements include rocks, stones, glass fragments, and hardpacked clumps of soil lying on or embedded in the surface. Vegetation does not count as a non-erodible element in this method. The purpose of this test method is to estimate the percent cover of non-erodible elements on a given surface to see whether such elements take up enough space to offer protection against windblown dust. For simplification, the following test method refers to all non-erodible elements as “rocks.”
1. Randomly select a 1 meter by 1 meter survey area within an area that represents the general rock distribution on the surface (a 1 meter by 1 meter area is slightly greater than a 3 foot by 3 foot area). Use a blind “over the shoulder” toss of a throwable object (for example, a metal weight with survey tape attached) to select the survey surface and using the point of fall as the lower left hand corner, measure a 1 meter by 1 meter survey area. Mark-off the survey area by tracing a straight, visible line in the dirt along the edge of a measuring tape or by placing short ropes, yard sticks, or other straight objects in a square around the survey area.
  2. Without moving any of the rocks or other elements, examine the survey area. Since rocks greater than 3/8 inch (1 cm) in diameter are of interest, measure the diameter of some of the smaller rocks to get a sense of which rocks need to be considered.
  3. Mentally group the rocks greater than 3/8 inch (1cm) diameter lying in the survey area into small, medium, and large size categories. If the rocks are all approximately the same size, simply select a rock of average size and typical shape. Without removing any of the rocks from the ground, count the number of rocks in the survey area in each group and write down the resulting number.
  4. Without removing rocks, select one or two average-size rocks in each group and measure the length and width. Use either metric units or standard units. Using a calculator, multiply

the length times the width of the rocks to get the average dimensions of the rocks in each group. Write down the results for each rock group.

5. For each rock group, multiply the average dimensions (length times width) by the number of rocks counted in the group. Add the results from each rock group to get the total rock area within the survey area.
6. Divide the total rock area, calculated in Subsection 15.28.130.B.5 of this Regulation, by two (to get frontal area). Divide the resulting number by the size of the survey area (make sure the units of measurement match), and multiply by 100 for percent rock cover. For example, the total rock area is 1,400 square centimeters, divide 1,400 by 2 to get 700. Divide 700 by 10,000 (the survey area is 1 meter by 1 meter, which is 100 centimeters by 100 centimeters or 10,000 centimeters) and multiply by 100. The result is 7% rock cover. If rock measurements are made in inches, convert the survey area from meters to inches (1 inch = 2.54 centimeters).
7. Select and mark-off two additional survey areas and repeat the procedures described in 15.28.130.B.1 through 15.28.130.B.6 of this chapter. Make sure the additional survey areas also represent the general rock distribution on the site. Average the percent cover results from all three survey areas to estimate the average percent of rock cover.
8. If the average rock cover is greater than or equal to 20%, the surface is stable.

#### **15.28.140 Visual Determination of opacity of emissions from sources of visible emissions.**

Applicability: This method is applicable for the determination of the opacity of emissions from sources of visible emissions. The Time Averaged Method requires averaging of visible emission readings over a specific time period to determine the opacity of visible emissions. The Time Averaged Method is applicable to continuous emissions sources.

Principle: The opacity of emissions of a source of visible emissions is determined visually by an observer who has current certification approved by the Control Officer, as a qualified Visible Emissions Evaluator, using US EPA Method 9.

Procedures: A qualified Visible emissions Evaluator shall use the procedures set forth in Subsection 1.

1. **Time Averaged Method:** This procedure is for evaluating continuous fugitive dust emissions and is for the determination of the opacity of continuous fugitive dust emissions by a qualified observer. . The qualified observer should do the following:
  - (a) Position: Stand at a position at least twenty (20) feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make opacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the fugitive dust plume generated by mobile earth moving equipment, as long

as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

- (b) Field Records: Record the name of the site, fugitive dust source type (e.g., earthmoving, grading, trenching), method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also, record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the fugitive dust source, and color of the plume and type of background on the visible emission observation when opacity readings are initiated and completed.
- (c) Observations: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make opacity observations at a point just beyond where material is no longer being deposited out of the plume (normally three (3) feet above the surface from which the plume is generated). The initial observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but instead observe the plume momentarily at 15-second intervals. For fugitive dust from earthmoving equipment, make opacity observations at a point just beyond where material is not being deposited out of the plume (normally three (3) feet above the mechanical equipment generating the plume).
- (d) Recording Observations: Record the opacity observations to the nearest 5% every fifteen (15) seconds on an observational record sheet. Each momentary observation recorded represents the average opacity of emission for a fifteen (15) second period. If a multiple plume exists at the time of an observation, do not record an opacity reading. Mark an "x" for that reading. If the equipment generating the plume travels outside of the field of observation, resulting in the inability to maintain the orientation of the sun within the 140° sector or if the equipment ceases operating, mark an "x" for the fifteen (15) second interval reading. Readings identified as "x" shall be considered interrupted readings.
- (e) Data Reduction For Time-Averaged Method: For each set of twelve (12) or twenty four (24) consecutive readings, calculate the appropriate average opacity. Sets shall consist of consecutive observations, however, readings immediately preceding and following interrupted readings shall be deemed consecutive and in no case shall two sets overlap, resulting in multiple violations.

#### **15.28.150 Posting of informational Signs on Construction Sites**

The Dust Control Plan sign shall conform to the following requirements:

1. The signboard shall be constructed with materials capable of withstanding the harsh environment (e.g., strong winds, intense sunlight) of Nye County.
  - (a) Nye County recommends the following materials:

- (i)  $\frac{3}{4}$ " A/C laminated plywood board 2 feet by 2 feet in dimension;
  - (ii) 4"x4" posts;
  - (iii) Posts should be attached to the plywood board with a minimum of two (2) carriage bolts on each post; and
  - (iv) The front surface of the signboard should be painted in the contrasting colors of a white background with black lettering.
2. The sign board shall contain the following information:
- (a) Project name;
  - (b) Owner/Operator name;
  - (c) Telephone Number of person responsible for dust control;
  - (d) Nye County Planning Department telephone umber;
  - (e) Building, site preparation, or conditional use permit number;
  - (f) Project Acreage; and
  - (g) Building, site preparation, or conditional use permit expiration date.
3. The signboard shall be designed to the following alpha and numeric text dimensions (sign boards written in longhand are unacceptable).

<u>PROJECT NAME:</u>	<b><u>(Proj. Name)</u></b>
<u>OPERATOR:</u>	<b><u>(Your Name)</u></b>
<u>OPERATOR TELEPHONE NUMBER:</u>	<b><u>(Your Number)</u></b>
<u>NYE COUNTY— PLANNING DEPARTMENT TELEPHONE NUMBER:</u>	<b><u>Pahrump Phone Number</u></b>
<u>BUILDING/OTHER PERMIT NUMBERS:</u>	<b><u>(Permit Number)</u></b>
<u>DUST CONTROL PLAN NUMBER</u>	<b><u>(Plan Number)</u></b>
<u>PROJECT ACREAGE:</u>	<b><u>(Acreage)</u></b>



Effective Date. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the .....2004

Proposed on the 3rd day of August, 2004

Proposed by Commissioner \_\_\_\_\_.

Adopted on the 17th day of August, 2004

Vote: Ayes:	Commissioners:
Nays:	Commissioners: None
Absent:	Commissioners: None

BY: \_\_\_\_\_  
Henry E. Neth, Chairman  
Nye County Board of County  
County Commissioners

ATTEST: \_\_\_\_\_  
Sandra "Sam" Merlino  
Clerk and Ex-Officio  
Clerk of the Board